IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WP(C).No. 31327 of 2006(D)

PETITIONER:

VANAJAKSHI M., AGED 38 YEARS,
P.D.TEACHER, G.L.P.S., PAYYANNUR,
KANNUR DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.TOJAN J. VATHIKULAM

RESPONDENTS:

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1. THE ASSISTANT EDUCATIONAL OFFICER,
PAYYANNUR, KANNUR.

2. THE HEADMISTRESS,
GOVT. L.P.SCHOOL, PAYYANNUR, KANNUR.

3. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT,
DEPARTMENT OF GENERAL EDUCATION,
SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVT. PLEADER SRI. T.T. MUHAMMED.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC. 31327/2006.

APPENDIX

PETITIONER'S EXTS:

EXT. P1 : TRUE COPY OF THE RELEVANT PAGES OF THE SERVICE BOOK OF THE PETITIONER.

EXT. P2 : TRUE COPY OF THE FORM OF OPTION FOR SENIOR GRADE DATED 23.8.2006.

EXT. P3 : TRUE COPY OF THE STATEMENT SHOWING FIXATION OF PAY IN THE SENIOR GRADE DATED 24.8.2006.

EXT. P4 : TRUE COPY OF THE COVERING LETTER SUBMITTED BY THE 2ND RESPONDENT DATED 24.8.2006.

EXT. P5 : TRUE COPY OF THE ABOVE ENDORSEMENT MADE ON THE REVERSE OF EXT. P4, BEARING NO.A/3530/06 DATED 25.8.2006.

K.M.JOSEPH, J.

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WP.(C) No.31327 OF 2006

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Dated this the 2nd day of April, 2007

JUDGMENT

Petitioner challenges Ext.P5 and seeks a direction to sanction senior grade to the petitioner on completion of 16 years of service with effect from 9.8.2004 as applied for in Ext.P2 and to fix the pay accordingly. A declaration is also sought that the petitioner is entitled to senior grade reckoning the provisional service and the leave without allowance, which have been reckoned as qualifying service while granting first higher grade. In Ext.P5 it is noted that the petitioner was on leave without allowance for the period from 7.6.1994 to 30.11.1994 for study purpose which was excluded while authorising annual increments. It is stated that this service won't be reckoned as qualifying service for time bound grades. It is also stated that broken service, which are not reckoned for normal increments, won't be taken into account for grades.

2. Heard counsel for the petitioner and the learned Government Pleader. Government Pleader does not dispute the fact that the

question raised is covered in favour of the petitioner by the decisions reported in **Deepika v. State of Kerala** (2007(1) K.L.T. 71) and in **Rajendran v. State of Kerala** (2004(3) K.L.T. 533). In the light of the same, Ext.P5 cannot be sustained.

Ext.P5 is quashed. Petitioner will be entitled to count the aforesaid periods, which were excluded in Ext.P5, for the purpose of grade.

The writ petition is disposed of as above.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.